

CRS Report for Congress

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India and Iran: WMD Proliferation Activities

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Summary

Members of Congress have questioned whether India's cooperation with Iran might affect U.S. and other efforts to prevent Iran from developing nuclear weapons. India's long relationship with Iran and its support of Non-Aligned Movement (NAM) positions on nonproliferation are obstacles to India's taking a hard line on Iran, yet the Bush Administration has asserted that U.S.-India nuclear cooperation would bring India into the "nonproliferation mainstream." India, like most other states, does not support a nuclear weapons option for Iran. However, its views of the Iranian threat and appropriate responses differ significantly from U.S. views. Entities in India and Iran appear to have engaged in very limited nuclear, chemical and missile-related transfers over the years, and some sanctions have been imposed on Indian entities for transfers to Iran, the latest in July 2006. This report will be updated as necessary.

In congressional hearings on the proposed U.S. nuclear cooperation agreement with India, Members questioned how India's cooperation with Iran might affect U.S. efforts to prevent Iran from developing nuclear weapons. India's long relationship with Iran and its support of Non-Aligned Movement (NAM) positions on nonproliferation are obstacles to India's taking a hard line on Iran, yet the Bush Administration has asserted that U.S.-India nuclear cooperation would bring India into the "nonproliferation mainstream." U.S. law requires recipients of U.S. nuclear cooperation to guarantee the nonproliferation of any U.S. material or equipment transferred. If a recipient state assists, encourages or induces a non-nuclear weapon state to engage in nuclear-weapons related activities, exports must cease. India's nonproliferation record continues to be scrutinized, as India continues to take steps to strengthen its own export controls. Additional measures of Indian support *could include* diplomatic support for negotiations with Iran; support for Bush Administration efforts to restrict enrichment and reprocessing; support for multilateral fuel cycle initiatives, and for the Proliferation Security Initiative.

India's Record of Support

India, like most other states, does not support a nuclear weapons option for Iran. However, Indian views of the threat Iran poses and appropriate responses differ from U.S. views. On September 24, 2005, India voted with 21 other states on International Atomic

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Energy Agency (IAEA) resolution GOV/2005/77, which found Iran in noncompliance with its safeguards agreement. However, the resolution did not refer the matter immediately to the Security Council, and India apparently was one of several states pressuring the EU-3 to keep the issue at the IAEA. According to Indian Foreign Secretary Shyam Saran, India voted for the resolution and against the majority of NAM states which abstained, because it felt obligated to do so after having pressured the EU-3 to omit

reference to immediate referral to the U.N. Security Council.¹ Moreover, the official explanation of India's vote seemed designed to highlight India's differences with the United States:

In our Explanation of Vote, we have clearly expressed our opposition to Iran being declared as noncompliant with its safeguards agreements. Nor do we agree that the current situation could constitute a threat to international peace and security. Nevertheless, the resolution does not refer the matter to the Security Council and has agreed that outstanding issues be dealt with under the aegis of the IAEA itself. This is in line with our position and therefore, we have extended our support.²

Nonetheless, India again voted with the United States on February 4, 2006, when the IAEA Board of Governors voted to refer Iran's noncompliance to the U.N. Security Council.³ The Ministry of External Affairs responded to questions about its vote in this manner:

While there will be a report to the Security Council, the Iran nuclear issue remains within the purview of the IAEA. It has been our consistent position that confrontation should be avoided and any outstanding issue ought to be resolved through dialogue.... Our vote in favour of the Resolution should not be interpreted as in any way detracting from the traditionally close and friendly relations we enjoy with Iran. It is our conviction that our active role, along with other friendly countries, enabled the tabling of a resolution that recognizes the right of Iran to peaceful uses of nuclear energy for its development, consistent with its international commitments and obligations, while keeping the door open for further dialogue aimed at resolving the outstanding issues within the purview of the IAEA.⁴

India's Prime Minister told the Indian Parliament on February 17, 2006, that "As a signatory to the NPT, Iran has the legal right to develop peaceful uses of nuclear energy consistent with its international commitments and obligations." Nonetheless, PM Singh also noted that "It is incumbent upon Iran to exercise these rights in the context of safeguards that it has voluntarily accepted upon its nuclear programme under the IAEA."⁵

India has supported the EU-3 negotiations, despite their ostensible objective of halting Iran's pursuit of sensitive nuclear technology (that is, enrichment, reprocessing and heavy water). In part, this may be because the talks offered a second avenue of negotiation that did not necessarily lead to U.N. Security Council sanctions, or because they have offered a viable discussion forum. India welcomed the U.S. decision to join the talks, stating:

¹ "Press Briefing by Foreign Secretary on the events in UN and IAEA," New Delhi, Sept. 26, 2005, available at [http://www.indianembassy.org/press_release/2005/Sept/29.htm].

² Briefing by Ministry of External Affairs Official Spokesperson on Draft Resolution on Iran in IAEA, available at [http://www.indianembassy.org/press_release/2005/Sept/16.htm].

³ See CRS Report RS21592, *Iran's Nuclear Program: Recent Developments*, by Sharon Squassoni.

⁴ See [http://www.indianembassy.org/newsite/press_release/2006/Feb/2.asp].

⁵ Prime Minister's Suo Motu Statement on Iran, New Delhi, Feb. 17, 2006, available at [http://www.indianembassy.org/newsite/press_release/2006/Feb/7.asp].

India has all along advocated that issues relating to Iran's nuclear programme ought to be resolved through dialogue and that confrontation should be avoided. Against this background, the readiness of the US to join in the dialogue between EU-3 and Iran, which India has all along supported, is to be welcomed.⁶

In September 2006, however, India joined other NAM states in a statement issued at the Havana NAM summit on Iran's nuclear program. The statement "reaffirmed the basic inalienable right of all states, to develop research, production and use of atomic energy for peaceful purposes without any discrimination and in conformity with their respective legal obligations. Therefore, nothing should be interpreted in a way as inhibiting or restricting this right of States to develop atomic energy for peaceful purposes. They furthermore, reaffirmed that States choices and decisions in the field of peaceful uses of nuclear technology and its fuel cycle policies must be respected."⁷

Two other U.S. nonproliferation policies that may help underpin a solution to the Iran crisis are related to restrictions on the nuclear fuel cycle — a ban on transferring enrichment and reprocessing technologies to states that are not already technology holders, and steps toward multilateralizing the nuclear fuel cycle so that sensitive technologies are not as widespread. A key new U.S. initiative in this area is the Global Nuclear Energy Partnership, or GNEP. India, under the July 18, 2005 Joint Statement with the United States, committed to refrain from transferring enrichment and reprocessing technologies to states that do not have them, as well as to support international efforts to limit their spread. India's future support for those policies, however, may be predicated on India being considered one of those technology holders. A recent statement from President Bush on GNEP did not recognize India as such a technology holder:

My administration has announced a new proposal called the Global Nuclear Energy Partnership. Under this partnership, America will work with nations that have advanced civilian nuclear energy programs — such as Great Britain, France, Japan, and Russia — to share nuclear fuel with nations like India that are developing civilian nuclear energy programs.... The strategy will allow countries like India to produce more electricity from nuclear power, it will enable countries like India to rely less on fossil fuels, it will decrease the amount of nuclear waste that needs to be stored and reduce the risk of nuclear proliferation.⁸

Another tool that may be utilized by those desiring to prevent Iran from developing nuclear weapons is the Proliferation Security Initiative. On November 2, 2005, Under Secretary of State R. Nicholas Burns told the Senate Foreign Relations Committee that "Indian support for the multi-national Proliferation Security Initiative (PSI) would be a boon to the participating nations' goal of tracking and interdicting dangerous terrorist and weapons of mass destruction (WMD) cargoes world-wide. We hope India will choose to

⁶ See [<http://meaindia.nic.in/pressbriefing/2006/06/01pb01.htm>].

⁷ Iran Republic News Agency, "118 countries back Iran's nuclear program," *Iran Times*, Sept. 18, 2006. The article contains the full text of the statement.

⁸ See [<http://www.whitehouse.gov/news/releases/2006/02/20060222-2.html>]

join PSI.”⁹ In April 2006, Secretary of State Rice told the House International Relations Committee that the United States was pressing India to announce its intention to participate in the Proliferation Security Initiative. Both the House (H.R. 5682) and Senate (S. 3709) bills to create an exception for India from relevant provisions of the Atomic Energy Act refer to the desirability of getting India to join PSI, but do not make it a prerequisite for cooperation. Prime Minister Singh told the Parliament in August 2006 that the “Proliferation Security Initiative is an extraneous issue...Therefore, we cannot accept it as a condition for implementing the July Statement. Separately, the Government has examined the PSI. We have certain concerns regarding its legal implications and its linkages with the NPT.”

Finally, efforts to prevent Iran from acquiring nuclear weapons rely on coordinated export controls and strong national export control systems. India has agreed to harmonize its export controls with the guidelines of the Nuclear Suppliers Group under the July 18, 2005 Joint Statement. India also passed a new law in May 2005, the Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Bill. According to Indian officials, the Act prohibits the “possession, manufacture, transportation, acquisition, development of nuclear weapons, chemical weapons or biological weapons by non-state actors.”¹⁰ It would prohibit the export of any good or technology from India “if the exporter knows it is intended to be used in a WMD program.” The U.S. Commerce and State Departments have not yet assessed India’s export control law and regulations,¹¹ which were promulgated in response to U.N. Security Council Resolution 1540 requiring all states to take actions to criminalize proliferation, particularly to non-state actors.

Some observers have stated that India does not have the necessary regulations in place to implement the law, and that India’s resources for implementation are remarkably limited.¹² A third issue is whether India will follow through in imposing penalties on violators of export control laws and regulations.

India’s Nonproliferation Record

In its semi-annual, unclassified report in 2000 to Congress on the acquisition of technology relating to weapons of mass destruction, the CIA identified India, along with Iran and Pakistan, as a “traditional recipient of WMD and missile technology” that could emerge as a new supplier of technology and expertise.¹³ The unclassified report also noted that “private companies, scientists, and engineers in Russia, China, and India may be increasing their involvement in WMD- and missile-related assistance, taking advantage

⁹ R. Nicholas Burns, Under Secretary of State for Political Affairs, “Hearing on U.S.-India Civil Nuclear Cooperation Initiative,” Remarks as prepared for the Senate Foreign Relations Committee, November 2, 2005, available at [<http://www.state.gov/p/us/rm/2005/55969.htm>].

¹⁰ See [<http://www.iaea.org/Publications/Documents/Infcircs/2005/infcirc647.pdf>].

¹¹ Questions for the Record Submitted to Secretary of State Condoleezza Rice by Senator Richard Lugar (#1), Senate Foreign Relations Committee, April 5, 2006.

¹² Conversation with David Albright, Institute for Science and International Security.

¹³ Unclassified Report to Congress on the Acquisition of Technology Relating to Weapons of Mass Destruction and Advanced Conventional Munitions, 1 July Through 31 December 2000.

of weak or unenforceable national export controls and the growing availability of technology.” In 2001, the unclassified CIA report noted that “We are increasingly concerned about the growth of ‘secondary proliferation’ from maturing state-sponsored programs, such as those in India, Iran, North Korea, and Pakistan.”

Reported Transfers to Iran

Entities in India and Iran appear to have engaged in very limited nuclear, chemical and missile-related transfers over the years. There are no publicly available indications of activities related to biological weapons. In the early 1990s, when Iran actively sought nuclear-related assistance and technology from many foreign sources, India appears to have played only a minor role in contrast to other states. India signed an agreement in November 1991 to provide a 10-megawatt research reactor to Tehran, but cancelled under pressure from the United States. Nonetheless, India reportedly trained Iranian nuclear scientists in the 1990s.¹⁴ More recently, India’s Foreign Minister Jaswant Singh stated in December 2003 that India “has and would continue to help Iran in its controversial bid to generate nuclear energy.”¹⁵

From 1998 to 2003, the United States has imposed nonproliferation sanctions on several different Indian entities for chemical and biological-weapons related transfers to Iraq.¹⁶ In 2004, the United States imposed sanctions on two Indian scientists for nuclear-related transfers to Iran: Dr. C. Surendar (sanctions on Dr. Surendar were lifted in December 2005) and Dr. Y.S.R. Prasad. Both scientists were high-ranking officials in the Nuclear Power Corporation of India, Limited (NPCIL). Indian officials protested, stating that cooperation had taken place under the auspices of the IAEA Technical Cooperation program. Other reports suggest that the scientists, who had served as Chairman and Managing Director of the NPCIL, which runs India’s power reactors, passed information to Iran on tritium extraction from heavy water reactors.¹⁷ In December 2005, sanctions were imposed on Sabero Organic Chemicals Gujarat Ltd. and Sandhya Organic Chemicals Pvt. Ltd. for transfers of chemical-related items to Iran. In July 2006, sanctions were imposed on two more chemical manufacturers in India for transfers to Iran — Balaji Amines and Prachi Poly Products.

In the chemical area, there is one confirmed transfer of 60 tons of thionyl chloride, a chemical that can be used in the production of mustard gas, from India to Iran in March 1989.¹⁸ Other shipments in that timeframe reportedly were halted under U.S. pressure. India does not appear in the CIA’s unclassified nonproliferation report to Congress as a supplier of chemical-weapons-related exports to Iran since the report began publication

¹⁴ See [http://www.nti.org/e_research/profiles/Iran/2867.html]

¹⁵ “India Denies Nuclear Cooperation with Iran,” *Agence France Presse*, December 13, 2003.

¹⁶ This discussion taken from a response to Questions for the Record Submitted to Secretary of State Condoleezza Rice by Senator Richard Lugar (#2), Senate Foreign Relations Committee, April 5, 2006.

¹⁷ John Larkin and Jay Solomon, “As Ties Between India and Iran Rise, U.S. Grows Edgy,” *Wall Street Journal*, March 24, 2005.

¹⁸ Thionyl chloride is a Schedule 3 chemical under the Chemical Weapons Convention. It has military and civilian uses, and is widely used in the laboratory and in industry.

in 1997. India signed the Chemical Weapons Convention in 1993 and deposited its instrument of ratification until 1996.

Other Considerations

One consideration in assessing a country's nonproliferation record is the extent to which its export control and procurement system helps limit or eliminate illicit transfers. David Albright, president of the Institute for Science and International Security, has argued that three factors contribute to a flawed nonproliferation record for India in the nuclear area: a poorly implemented national export control system; an illicit procurement system for its own nuclear weapons program, and a procurement system that may unwittingly transfer sensitive information about uranium enrichment.¹⁹ When asked formally to respond to Albright's allegations, the Administration stated it would be happy to discuss the allegations in a classified session with Members of Congress.²⁰

Albright has suggested that the illicit procurement system in India has led entities to mislead suppliers about the ultimate destination of their goods. Such a system could be used to mask onward proliferation. From February 2003 to April 2006, the Department of Commerce opened 63 cases of possible Export Administration Regulations violations by U.S. firms exporting to India; 33 of those cases are still open.²¹ In response to Senator Lugar's question for the record on investigations since 1998 into potential violations of U.S. export laws, the State Department reported that in one case, a U.S. firm exported technical information to an entity in India associated with its missile program. In another case, a U.S. firm with a subsidiary in Singapore committed 36 violations of the Export Administration Regulations by exporting various life sciences research products to entities in the Indian Department of Atomic Energy and Indian Department of Defense. In another case, a U.S. firm attempted the unlicensed export of biotoxins to North Korea via a firm in New Delhi.

¹⁹ David Albright and Susan Basu, "Neither a Determined Proliferation Nor A Responsible State: India's Record Needs Scrutiny," Institute for Science and International Security, April 5, 2006, available at [<http://www.isis-online.org/publications/southasia/indiacritique.pdf>]. See also Albright and Basu, "India's Gas Centrifuge Program: Stopping Illicit Procurement and the Leakage of Technical Centrifuge Know-How," March 10, 2006, available at [<http://www.isis-online.org/publications/southasia/indianprocurement.pdf>].

²⁰ Questions for the Record Submitted to Secretary of State Condoleezza Rice by Senator Richard Lugar (#3), Senate Foreign Relations Committee, April 5, 2006.

²¹ Questions for the Record Submitted to Secretary of State Condoleezza Rice by Senator Richard Lugar (#3), Senate Foreign Relations Committee, April 5, 2006.